

## Message Text

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EUR/RPE:WSALISBURY (PHONE)  
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AMEMBASSY MOGADISCIO BY POUCH  
AMEMBASSY BRAZZAVILLE BY POUCH  
AMEMBASSY BANJUL BY POUCH  
USINT BAGHDAD BY POUCH  
XMT AMEMBASSY SUVA  
AMEMBASSY PORT MORESBY  
AMEMBASSY MOGADISCIO  
AMEMBASSY BRAZZAVILLE  
AMEMBASSY BANJUL

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USEEC

E.O. 11652: XGDS-1

TAGS: PLOS

SUBJECT: LOS: LAW OF THE SEA MEETINGS

SUMMARY: NORWEGIAN LOS MINISTER EVENSEN CHAIRED INFORMAL  
MEETINGS OF SELECTED LOS DELEGATIONS IN GENEVA AND NEW

YORK IN NOVEMBER TO DISCUSS THE ORGANIZATION OF INTER-SESSIONAL WORK, THE SEVENTH SESSION AND TO IDENTIFY KEY ISSUES REMAINING ON THE LOS AGENDA. ATTENDEES INCLUDED A FAIRLY BROAD CROSS-SECTION OF CONFERENCE PARTICIPANTS. THE GROUP AGREED THAT LOS CONFERENCE PRESIDENT AMERASINGHE SHOULD CALL AND CHAIR A TWO-WEEK INTERSESSIONAL MEETING IN FEBRUARY 1978 TO DISCUSS 7TH SESSION PROCEDURES AND TWO OF THE SEVEN MAJOR IDENTIFIED ISSUES, I.E., SEABEDS AND LL/GDS PROBLEMS. USDEL ALSO MET WITH THE CONFIDENTIAL GROUP OF FIVE, SPONSORED A MEETING OF LIKE-MINDED COUNTRIES REPRESENTED IN SEABED MINING CONSORTIA, AND HELD A BILATERAL WITH THE USSR. THE PROSPECT OF U.S. DEEP SEA MINING LEGISLATION WAS ON EVERYONE'S MIND. END SUMMARY

1. AT PRIVATE CONSULTATIONS IN PREPARATION FOR UPCOMING LOS CONFERENCE SESSIONS, NORWEGIAN LOS MINISTER EVENSEN MET WITH SELECTED LOS DELEGATIONS IN GENEVA, NOVEMBER

14-18, TO EXPLORE THE NEED FOR INTERSESSIONALS AND TO IDENTIFY THE KEY ISSUES WHICH REQUIRE FURTHER NEGOTIATION. PARTICIPATING WERE: AUSTRALIA (BRENNAN); AUSTRIA (WOLF); BRAZIL (CALERO-RODRIGUEZ); BULGARIA (YANKOV); CONFIDENTIAL

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CANADA (BEESLEY); CHILE (ZEGERS); CZECHOSLOVAKIA (KOPAL); EGYPT (A. ABOUL-KHEIR); FIJI (NANDAN); FRANCE (JEANNEL); GDR (WUNSCH); FRG (KNOKE); INDIA (JAGOTA); INDONESIA (KAMIL); IRAQ (F.B. AL-TIKRIT); IRAN (KAZEMI); JAMAICA (RATTRAY); JAPAN (IGUCHI); MEXICO (CASTANEDA); NIGERIA (ADIO); PERU (ARIAS-SCHREIBER); SENEGAL (A. CISSE); TRINIDAD AND TOBAGO (BALLAH); U.K. (ARCULUS); USA (RICHARDSON) AND USSR (KOLOSOVSKY).

2. SEVEN MAJOR PROBLEM AREAS WERE IDENTIFIED BUT NO ATTEMPT WAS MADE TO ESTABLISH PRIORITIES AMONG THEM. THEY WERE:

--(1) MATTERS PERTAINING TO THE INTERNATIONAL SEABED AREA--A REGIME FOR THE DEEP SEABEDS;

--(2) LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES (LL/GDS);

--(3) DISPUTE SETTLEMENT PROVISIONS RELATING TO THE EXERCISE OF THE COASTAL STATE'S RESOURCES JURISDICTION AND TO BOUNDARY ISSUES;

--(4) DEFINITION OF THE CONTINENTAL MARGIN AND THE RELATED ISSUE OF REVENUE SHARING;

--(5) DEMARCATION AS BETWEEN ADJACENT AND OPPOSITE

STATES;

--(6) PROVISIONS DEALING WITH THE STATUS OF THE ECONOMIC ZONE, AND

--(7) PREAMBLE AND FINAL CLAUSES.

3. IN ADDITION TO THE ABOVE, A NUMBER OF OTHER TOPICS WERE HIGHLIGHTED AS REQUIRING FURTHER CONSIDERATION  
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BEFORE CONCLUSION OF THE PROPOSED LOS CONVENTION.  
THESE WERE:

--(1) THE RELATIONSHIP BETWEEN THE LOS CONVENTION AND OTHER CONVENTIONS;

--(2) ENCLOSED AND SEMI-ENCLOSED SEAS;

--(3) THE STATUS OF ISLANDS, AND

--(4) MARINE SCIENTIFIC RESEARCH.

4. THERE WAS COMPLETE AGREEMENT THAT THE SEABEDS QUESTION SHOULD BE DISCUSSED AT ANY PROPOSED INTERSESSIONAL MEETING. IN PARTICULAR THE FOLLOWING ASPECTS OF PART XI AND RELATED ANNEXES OF THE INFORMAL COMPOSITE NEGOTIATING TEXT (ICNT) WERE MENTIONED AS PROBLEM AREAS:

--(1) THE SYSTEM OF EXPLOITATION, INCLUDING THE ISSUE OF JOINT VENTURES AND TRANSFER OF TECHNOLOGY (ARTICLE 151; ANNEX II, PARAS 4 AND 5);

--(2) THE RESOURCE POLICY (ARTICLE 150);

--(3) THE REVIEW CLAUSE (ARTICLES 152 AND 153, PARA 6);

--(4) POWERS, FUNCTIONS, COMPOSITION AND PROCEDURES OF THE ASSEMBLY AND COUNCIL (ARTICLES 157-160);

--(5) DISPUTE SETTLEMENT ASPECTS (ALL OF PART VI);

--(6) MINERALS OTHER THAN NODULES (ARTICLE 150(G))  
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(C));

--(7) MARINE SCIENTIFIC RESEARCH (ARTICLES 143 AND 151(7)); AND

--(8) FINANCIAL ARRANGEMENTS (ANNEX II, PARA 2 AND ARTICLES 170 AND 177).

5. IN ORDER TO PREPARE FOR THE FORMAL LOS SESSION SCHEDULED FOR MARCH-MAY 1978 AT GENEVA, IT WAS AGREED THAT PRESIDENT AMERASINGHE SHOULD CALL A FULL-SCALE MEETING, PREFERABLY IN EARLY FEBRUARY FOR TWO WEEKS. IT WAS CLEAR THERE COULD NOT BE FULL DISCUSSION OF THE SEVEN MAJOR TOPICS; SO THE GROUP RECOMMENDED FOCUSING ON TWO ITEMS: (1) PART XI (AS NOTED PARA 4 ABOVE) AND (2) LL/GDS ISSUES. IN THIS LATTER CATEGORY, LL/GDS SPOKESMEN EXPRESSED CONCERN WITH AT LEAST THREE LL/GDS ISSUES: (1) THE DEFINITION OF A GEOGRAPHICALLY DISADVANTAGED STATE; (2) THE RIGHTS OF THE LL/GDS WITH RESPECT TO THE LIVING RESOURCES IN THE ECONOMIC ZONE, AND (3) LL/GDS RIGHTS WITH REGARD TO MINERAL RESOURCES ON THE CONTINENTAL SHELF AND IN THE INTERNATIONAL SEABED AREA. SPOKESMEN FROM THE COASTAL STATE GROUP, HOWEVER, STRONGLY DISPUTED

LL/GDS CLAIMS TO FURTHER NEGOTIATIONS ON THREE TOPICS AND STATED THAT THE ONLY CRITICAL LL/GDS ISSUE WAS THE FORMULATION CONCERNING ACCESS TO PARTICIPATE IN THE EXPLOITATION OF THE SURPLUS LIVING RESOURCES OF THE ECONOMIC ZONE.

6. ON DEEP SEABEDS, THE U.S., U.K., JAPAN, FRG, USSR AND FRANCE CRITICIZED THE CHANGES MADE IN PART XI OF THE ICNT AND STRESSED THAT THERE WOULD HAVE TO BE SERIOUS AND MAJOR REVISIONS TO MAKE THIS PART OF THE TEXT ACCEPTABLE. (THE SOVIET CRITICISMS WERE MORE CONFIDENTIAL

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MUTED THAN THOSE OF THE WESTERN STATES.) ON THE OTHER HAND, IT WAS EVIDENT FROM G-77 STATEMENTS THAT, ALTHOUGH THEY ALL RECOGNIZED THAT THE TEXT OF PART XI NEEDED IMPROVEMENT TO MEET OUR CONCERNS, IT WOULD NOT BE FEASIBLE TO REPLACE IT AS A BASIS OF DISCUSSION. HOWEVER, THE GROUP OF 77 STATEMENTS SHOWED A WILLINGNESS TO TRY TO RESOLVE PROBLEMS THROUGH NEGOTIATING FOCUSED ON EACH PROBLEM, RATHER THAN ON THE ICNT.

7. CONCERNING THE PROCEDURES FOR THE INTERSESSIONAL MEETING, IT WAS SUGGESTED THAT THE CONFERENCE PRESIDENT APPOINT SPECIAL NEGOTIATING GROUPS TO DEAL WITH THE TWO MAIN ISSUES TO BE DISCUSSED--THE INTERNATIONAL SEABED AREA AND THE LL/GDS QUESTIONS. CHAIRMEN OF THE THREE MAIN NEGOTIATING COMMITTEES WOULD ASSIST THE PRESIDENT IN HIS TASKS ALTHOUGH THERE WAS NO CONSENSUS ON HOW COMMITTEE STRUCTURES SHOULD BE USED AGAIN. IT WAS SUGGESTED THAT THE INTERSESSIONAL

MEETING BE HELD IN FEBRUARY 1978 FOR TWO WEEKS WITH A PROBABLE VENUE OF NEW YORK.

8. WITH REGARD TO THE ORGANIZATION AND GOALS OF THE WORK AT THE 7TH CONFERENCE SESSION, THERE WAS GENERAL AGREEMENT ON THE OBJECTIVE OF MAKING THE 7TH SESSION THE LAST NEGOTIATING SESSION OF THE CONFERENCE. IT WAS POINTED OUT, HOWEVER, THAT IN CASE OF REAL PROGRESS AT THE 7TH SESSION, THE OPTION SHOULD BE KEPT OPEN FOR A SUBSEQUENT MEETING LATER IN 1978, IN ORDER TO PERMIT A 1979 SIGNING IN CARACAS. A NUMBER OF G-77 REPRESENTATIVES SAID EVEN A BRIEF SECOND SESSION IN 1978 WOULD BE HARDSHIP. IT WAS ALSO NOTED THAT THE 1978 CONFERENCE SCHEDULE WAS VERY HEAVY AND THAT THE DRAFTING COMMITTEE WOULD NEED CONSIDERABLE TIME  
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FOR THE PREPARATION OF A FINAL FORMAL TEXT. SOME G-77 REPS STATED A PREFERENCE FOR A FURTHER SESSION TO BE HELD EARLY IN 1979, AS AN ALTERNATIVE. ALL PARTICIPANTS AGREED THAT THE RAISING OF DELIBERATIONS

AT THE CONFERENCE TO THE LEVEL OF THE INFORMAL PLENARY, ASSISTED BY AD HOC NEGOTIATING GROUPS, REPRESENTED A POSITIVE PROCEDURAL APPROACH. THE INFORMAL PLENARY SHOULD BE PRESIDED OVER BY THE PRESIDENT BUT ASSISTED BY THE COMMITTEE CHAIRMEN AND THE CHAIRMAN OF THE DRAFTING COMMITTEE. AT THE SAME TIME, THERE WAS BROAD AGREEMENT THAT THE ROLE OF THE THREE COMMITTEES COULD NOT BE COMPLETELY DISPENSED WITH.

9. WITH REGARD TO QTE FORMALIZATION UNQTE OF THE ICNT, THERE WAS CONSIDERABLE CONFUSION AS TO THE DISTINCTION BETWEEN FORMALIZATION AND THE ADOPTION OF A DRAFT CONVENTION, WITH MANY PARTICIPANTS EXPRESSING CAUTION ABOUT ABANDONNING CONSENSUS PROCEDURES IN FAVOR OF VOTING BEFORE AN AGREED TEXT EXISTED. IT WAS SUGGESTED THAT A FURTHER CLARIFICATION OF THESE ISSUES SHOULD BE SOUGHT IN THE INTERSESSIONAL MEETING.

10. EVENSEN TRAVELLED TO NEW YORK ON NOVEMBER 22 TO PRESENT HIS FINDINGS TO PRESIDENT AMERASINGHE AND TO BRIEF OTHER LOS DELEGATIONS WHO HAD BEEN UNABLE TO PARTICIPATE IN THE GENEVA TALKS.

11. IN ADDITION TO THE EVENSEN TALKS THE USDEL ALSO MET WITH THE CONFIDENTIAL GROUP OF FIVE (U.S., USSR, U.K., FRANCE AND JAPAN) TO CONTINUE COORDINATION OF A COMMON LOS POLICY. THE G-5 WAS IN COMPLETE AGREEMENT ON THE UNACCEPTABILITY OF PART XI OF THE ICNT AND SHARED A COMMON RESOLVE TO HAVE SIGNIFICANT CHANGES MADE IN THAT PART. TOWARD THAT END THE G-5

EXPERTS PLAN TO PREPARE TEXTUAL AMENDMENTS AND TO  
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COORDINATE THEIR APPROACH TO THESE NEGOTIATIONS.  
SOME CONCERN WAS EXPRESSED BY MEMBERS OF THE G-5 ABOUT  
THE IMPACT ON THE CONFERENCE OF UNILATERAL U.S. MINING  
LEGISLATION. OTHER PROBLEM AREAS IN THE ICNT WERE  
ALSO HIGHLIGHTED WITH THE SOVIETS CITING THE ECONOMIC  
ZONE FORMULATIONS AND THE U.S. NOTING IT PLANS TO SEEK  
CHANGES IN MARINE SCIENTIFIC RESEARCH PROVISIONS.

12. THE U.S. HOSTED A MEETING OF LIKE-MINDED STATES  
WITH ENTITIES INVOLVED IN SEABED MINING CONSORTIA.  
PARTICIPANTS INCLUDED: JAPAN, FRANCE, U.K., BELGIUM,  
NETHERLANDS, AND THE FEDERAL REPUBLIC OF GERMANY. THE  
USSR WAS INVITED BUT DECLINED. CANADA WAS INVITED  
BUT MISSED THE MEETING. THE GROUP SHARED A COMMON  
DISAPPOINTMENT WITH THE DISRUPTIVE AND INHIBITORY  
PROVISIONS OF PART XI AND AGREED TO COORDINATE  
AMENDMENTS THAT WOULD REDRESS THE BIAS OF THIS SECTION.  
ALL DELEGATIONS AGREED THAT A SATISFACTORY COMPREHENSIVE

TREATY IS THE PREFERRED SOLUTION TO LAW OF THE SEA  
ISSUES, BUT, TO PROVIDE FOR THE POSSIBILITY OF FAILURE,  
THAT SOME CONTINGENCY PLANNING SHOULD BE UNDERTAKEN  
WITH RESPECT TO HOW TO PROTECT THEIR LOS INTERESTS,  
INCLUDING THOSE IN SEABED MINING. ALL PARTICIPANTS  
NOTED THAT THE PACE OF U.S. SEABED MINING LEGISLATION  
WOULD PROBABLY MAKE IT NECESSARY FOR THEIR GOVERNMENTS  
TO MOVE AHEAD LEGISLATIVELY AS WELL BEFORE TOO LONG,  
HOPEFULLY IN COORDINATION WITH ONE ANOTHER.

13. AT THE US-SOVIET BILATERAL THE SOVIETS AGREED  
TO WORK TOWARD SIGNIFICANT CHANGES IN PART XI OF THE  
ICNT AND TO CONTINUE EFFORTS TO COORDINATE WITH THE  
U.S. ON LOS GOALS. THEY EXPRESSED SERIOUS CONCERN  
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ABOUT THE NEGATIVE IMPACT THAT U.S. UNILATERAL  
MINING LEGISLATION MIGHT HAVE ON THE LOS CONFERENCE  
AND ASKED THAT IT BE SHELVED. THE U.S. SIDE REAFFIRMED  
ITS STRONG OPPOSITION TO PART XI AND ITS COMMITMENT  
TO MAKE MAJOR CHANGES IN THAT SECTION. IT WAS ALSO  
AGREED THAT STRONG EFFORTS WOULD BE MADE TO PROTECT  
THE OTHER SATISFACTORY SECTIONS OF THE ICNT FROM  
CHANGES.

14. COMMENT. WHILE WE ARE PLEASED WITH THE RESULTS  
OF THE GENEVAL TALKS, A CAUTIONARY NOTE IS IN  
ORDER. OBSERVERS MAY MISTAKENLY INFER FROM THE GENERAL

AGREEMENT REACHED IN GENEVA TO DEAL WITH SEABEDS  
ISSUES AT THE INTERSESSIONAL AND FROM THE WIDESPREAD  
DESIRE FOR A TREATY SIGNING IN 1979 THAT A SUCCESSFUL  
AND EARLY CONCLUSION OF THE LOS CONFERENCE, SEEMS  
LIKELY. IT IS, HOWEVER, TOO SOON TO TELL. WHILE WE  
ARE HOPEFUL THAT DEVELOPING COUNTRIES AND OTHERS ARE  
BEGINNING TO REALIZE THAT THE U.S. IS DEADLY  
SERIOUS ABOUT THE PREREQUISITE OF AN ACCEPTABLE SEA-  
BED MINING REGIME, ONLY NEGOTIATIONS WILL REVEAL THEIR  
TRUE INTENT AND FLEXIBILITY. IN THE MEANTIME, THE  
USG IS DUTY-BOUND TO EXAMINE ALTERNATIVE WAYS OF  
PROTECTING THE VARIOUS INTERESTS IT HAS ENGAGED IN  
THE NEGOTIATIONS, WHILE CONTINUING TO DO ITS BEST TO  
BRING ABOUT THE PREFERRED SOLUTION, I.E., A COMPRE-  
HENSIVE LOS TREATY. END COMMENT.

15. POSTS MAY IN THEIR DISCRETION DRAW ON PARAS ONE  
THRU TEN ONLY IN DISCUSSIONS WITH HOST COUNTRY LOS  
OFFICIALS KEEPING IN MIND THE CAVEATS EXPRESSED IN  
PARA 14. PARAS ELEVEN THRU THIRTEEN ARE PROVIDED  
FOR CONFIDENTIAL BACKGROUND. DEPARTMENT OF COURSE  
REMAINS INTERESTED IN ANY LOS COMMENTARY HOST

GOVERNMENT OFFICIALS OFFER. CHRISTOPHER  
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